

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DECAGON DEVICES, INC. a Washington Corporation, and COASTAL ADMINISTRATIVE SERVICES, INC., a Washington Corporation)	
)	No.
)	
)	
Plaintiffs,)	
v.)	DEFENDANTS AMERICAN FIDELITY ASSURANCE COMPANY AND INTERNATIONAL ASSURANCE OF TENNESSEE, INC.’S NOTICE OF REMOVAL
INTERNATIONAL ASSURANCE OF TENNESSEE, INC., a Tennessee Corporation, and AMERICAN FIDELITY ASSURANCE COMPANY, an Oklahoma Corporation,)	
)	
Defendants.)	
)	
)	

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and without waiving any defenses, Defendants American Fidelity Assurance Company (“AFA”) and International Assurance of Tennessee, Inc. (“IAT”) respectfully remove the civil action filed against it by plaintiffs Decagon Devices, Inc. (“Decagon”) and Coastal Administrative Services, Inc. (“CAS”) from the Superior Court of Washington, County of Whatcom, to the Seattle Division of the United States District Court for the Western District of Washington.

I. Removal is Proper Under 28 U.S.C. §§ 1441 and 1332

Under 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or

1 defendants, to the district court of the United States for the district and division embracing the
2 place where such action is pending.” Each of these conditions is satisfied here.

3 **A. This Court has original jurisdiction over this action**

4 This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)
5 because there is complete diversity of citizenship between Defendants, AFA and IAT, and
6 Plaintiffs, Decagon and CAS, and Defendants have a good faith basis to believe the amount in
7 controversy exceeds \$75,000.

8 Complete diversity exists in this matter. Decagon and CAS are Washington Corporations
9 with their principal places of business in, respectively, Pullman and Bellingham, Washington.

10 **Attachment 1 (Complaint) at ¶ 1.1 & 1.2.** Neither Defendant is a citizen or resident of
11 Washington. IAT is a Tennessee Corporation with its principal place of business in Tennessee
12 and AFA is an Oklahoma Corporation with its principal place of business in Oklahoma.

13 Plaintiffs’ complaint sets forth a dollar amount prayed for. Plaintiffs’ complaint
14 specifically prays for relief as follows:

- 15
16 1. Judgment against American Fidelity for \$620,000.00 plus
interest, attorney’s fees and costs in compensatory damages;

17 **Attachment 1** at p. 9.

18
19 Defendants deny that they caused Plaintiffs’ alleged damages, but the allegations clearly
20 exceed the amount in controversy threshold of \$75,000.

21 **B. The Western District Embraces the Place Where the Action is Pending**

22 This notice of removal is properly directed to this Court pursuant to 28 U.S.C. § 1441
23 because this Court is “the district court of the United States for the district and division” within
24 which the state court action is pending. Pursuant to 28 U.S.C. § 128(b), Whatcom County,
25 Washington, falls within the Western District of Washington, Seattle Division.

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II. Removal is Procedurally Proper Under 28 U.S.C. § 1446

Section 1446(a) provides:

A defendant or defendants desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

Pursuant to this requirement, Defendants filed herewith as **Attachment 1** a copy of plaintiffs' summons and complaint. Defendants also attach a complete copy of all other pleadings and documents filed in the underlying state court action to the Declaration of Stephanie Andersen, filed contemporaneously herewith, in compliance with the requirements set forth in LCR 101(b).

Defendants' notice of removal also satisfies the relevant portions of §1446(b). First, it is timely. Pursuant to § 1446(b)(1), a notice of removal in a civil action "shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." Here, plaintiffs served AFA with the complaint through personal service on March 16, 2015. IAT was served no earlier than March 16, 2015. Defendants have filed this notice within 30 days after receipt of the complaint.

Second, the notice satisfies § 1446(b)(2). All served defendants hereby consent to removal and file this notice of removal jointly as evidence of such consent.

Finally, pursuant to § 1446(d), Defendants will file written notice of this removal with the clerk of the Superior Court of Washington for Whatcom County and, pursuant to § 1446(d) and LCR 101(b), will serve copies of the written notice and notice of removal to plaintiffs.

1 **III. Intradistrict Assignment**

2 Pursuant to LCR 101 and 3(d), Defendants remove this action to the Seattle Division
3 because the State Court action was filed in Whatcom County, Washington.

4 **IV. Conclusion**

5 Defendants respectfully remove to this Court the civil action filed against it by plaintiffs
6 in Case Number 15-2-00187-2 from the Superior Court of Washington for Whatcom County.

7
8 DATED this 13th day of April, 2015.

9 GORDON & POLSCER, L.L.C.

10 By: /s/ Stephanie Andersen

11 By: /s/ Ryan Hesselgesser

12 Stephanie Andersen, WSBA #22250

13 Ryan Hesselgesser, WSBA #40720

14 Gordon & Polscer, L.L.C.

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17 Attorneys for Defendants American Fidelity
18 Assurance Company & International Assurance of
Tennessee

CERTIFICATE OF SERVICE

I, Sibel Abreu, hereby certify that on April 13, 2015, I caused the above pleading to be served on the following:

Attorney for Plaintiff Decagon Devices, Inc.

Tom Mumford
Buri Funston Mumford, PLLC
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tom@burifunston.com

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☐ Telefax
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I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct.

DATED this 13th day of April, 2015.

GORDON & POLSCER, L.L.C.

By: /s/ Sibel Abreu

Sibel Abreu, Paralegal

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CERTIFICATE OF SERVICE - 6

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